

MASSAGE THERAPISTS, ROLFERS, MASSAGE
FACILITIES AND BATHHOUSE LICENSES



From Scottsdale City Code

NOTICE TO TAXPAYERS

This booklet incorporates sections of the City Code of the City of Scottsdale as it relates to massage therapists, rolfers, massage facilities and bathhouses.

It is our hope that this booklet will assist you in understanding the tax law.

For any additional information or clarification, please call (480) 312-2400.

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TABLE OF CONTENTS

CHAPTER 16 ARTICLE VI

16-201	Definitions
16-202	Licenses
16-203	Administration; license duration; fees; duplicate
16-204	License application; contents
16-205	Fingerprints; background investigation; time for issuance
16-206	Massage facility license; special requirements
16-207	Massage therapist license; special requirements
16-208	Rolfing license; special requirements
16-209	Types of licenses; on-premises; off-premises
16-210	Display of license
16-211	Required records; logs
16-212	Change in location of business
16-213	License renewal
16-214	Sale, transfer or expansion of massage facility
16-215	Unlawful acts; penalty
16-216	Review and appeals
16-217	Revocation; Grounds
16-218	Information update
16-219	Inspections
16-220	Application after denial or revocation of license
16-221	Applicability of regulations to existing business
16-222	Exemptions

Sec. 16-201. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning.

Bathhouse means any establishment or facility in which is carried on the business of providing baths of any kind, including but not limited to all forms of hydrotherapy.

Director means the Customer Service Director of the City of Scottsdale, or the director's designee.

Massage facility means any place of business or establishment in which any massage techniques as defined in this article are administered, practiced or used. Unless otherwise expressly provided in this article, the term massage facility shall include a bathhouse.

Massage techniques means the therapeutic touching, application of pressure upon or manipulation of the human body through the skillful application of varied movements of the hands and fingers of the therapist upon the muscles and other soft tissues of the external parts of the body, including effleurage, petrissage, tapotement, friction, vibration, rolling, oil rubs, salt glows, alcohol rubs, and the rotation, circumduction, flexion and extension of the extremities. Massage techniques also include hydrotherapy, consisting of tub, shower or cabinet baths, hot and cold packs, and adjunctive therapies. All massage techniques are to be applied to external parts of the body only.

Massage therapist means a person who has completed a course of study, as specified herein, in a licensed school of massage therapy and who practices and administers any or all massage techniques described in this article for a fee or consideration of any kind in the city.

Licensed school of massage therapy means an institution of learning which offers courses of instruction in the theory, method and practice of massage therapy, including but not limited to instruction in anatomy, physiology and hygiene, and which is or was, at the times relevant to this article, licensed as a school of massage therapy by, (I) the Arizona State Board for Private Post Secondary Education, or by an accrediting agency recognized by the United States Department of Education or the Council on Post Secondary Education; or (II) a school located in another state of the United States, which offers a similar curriculum and which is licensed or accredited, (a) by that state by an office or agency similar to the Arizona State Board of Private Post Secondary Education, or (b) by an accrediting agency recognized by the United States Department of Education, or the Council on Post Secondary Education.

On-premises means at or in a massage facility licensed under the provisions of this article and shall specifically relate to the physical area used for conducting the regular business of the massage facility. On-premises shall also specifically mean a resort hotel or motel where patron or guest rooms shall be deemed to be included in the massage facility. On-premises

shall not apply to any other adjacent area that the facility may be ancillary to, whether or not ownership is common.

Off-premises means a private home, apartment or other residence, but not the residence of a licensee, unless licensed as a massage facility under the provisions of this article; an individual office within a business, in which a person receiving any of the services which are the subject of this article works; or any unit of a resort, hotel or motel, including rooms, casitas or like facilities, which is occupied by a patron or guest of the resort, hotel or motel.

Person means a corporation, firm, partnership, association, organization and any other group acting as a unit, as well as an individual.

Rolfing means a technique developed by Ida P. Rolf, Ph.D., as a system for integrating the human physical structure, which is a form of deep connective tissue manipulation and education based upon the assumption that the human body is changeable. A "rolfer" is a person who has been trained in and practices the rolfing technique.

Sec. 16-202. Licenses.

(a) The license required by this section shall be in addition to any other licenses or permits required in order to engage in the business or occupation, as applicable, by either the city, the county or the state, and persons engaging in activities described by this article shall comply with all other ordinances and laws, including the city zoning ordinance, as may be required to engage in a business or profession.

(b) Persons desiring to both operate a massage facility and engage in the occupation of massage therapist shall obtain licenses for each activity. All licenses issued pursuant to this article shall be non-transferable. This shall not be construed, however, to prohibit a change in location of a licensed facility as provided by this article.

Sec. 16-203. Administration; license duration; fees; duplicate.

(a) The administration of this article, including the duty of prescribing forms, is vested in the general manager, except as otherwise specifically provided. The chief of police shall render such assistance in the administration and enforcement of this article as may be required by the general manager, director, or designee, as appropriate.

(b) License applications made pursuant to this article shall be submitted to the director, who shall have the authority to issue, deny, renew, or revoke licenses in accordance with the provisions of this article and article I of this chapter.

(c) All licenses issued pursuant to this article shall be for a period of one (1) year and shall be renewable under the terms and conditions of this article.

(d) A non-refundable application fee in the amount of fifty dollars (\$50) shall accompany each license application submitted pursuant to this article. In the event that an individual or business applies for one or more additional licenses pursuant to this article, at the same time, only one application fee shall be required and none shall be required for the additional applications.

(e) A fee of twenty-five dollars shall be paid to the director for each set of fingerprints required to be provided pursuant to Section 16-205. The fee for fingerprinting shall be paid at the time the fingerprints are taken.

(f) The annual license fee for each license type shall be fifty dollars (\$50).

(g) Upon request and payment of a ten dollar fee, the director shall issue a duplicate license to a licensee, or authorize the issuance of a duplicate licensee identification card, as applicable, to a licensee whose license or identification card has been lost, stolen or destroyed.

Sec. 16-204. License application; contents.

A person applying for a massage facility, bathhouse, massage therapist or Rolfer's license shall provide the following information:

- (1) The full legal name and current residence address of the applicant;
- (2) Any alias or other name used by the applicant, or by which the applicant has been previously known;
- (3) The two (2) residence addresses immediately prior to the present address of the applicant, and the dates of residence at each address;
- (4) Proof the applicant is eighteen (18) years of age (e.g., birth certificate, naturalization papers or resident alien card);
- (5) The address at which the applicant desires to do business, if applying for a massage facility license. Applicants for massage therapist or Rolfer's license shall list the names and addresses of the massage facilities or business locations, as appropriate, at which they will be working.
- (6) The applicant's height, weight and hair and eye color;
- (7) The business, occupation or employment history of the applicant during the previous five (5) years;
- (8) The business license history of the applicant, including whether the applicant has previously operated in this or another city or state under a license and has had such

license revoked or suspended, the reason therefor, and the business activity or occupation subsequent to such suspension or revocation;

(9) A statement certifying that the applicant is a United States citizen or lawful permanent resident alien, or an alien who is authorized to work by the United States Department of Justice, Immigration and Naturalization Service.

(10) Complete information regarding whether or not the applicant has ever been convicted of, plead guilty or no contest to, or has been sentenced for, any felony, or any misdemeanor involving fraud, theft, dishonesty, assaultive conduct or moral turpitude, in any jurisdiction, including a military court, within the five year period immediately preceding the filing of the application. The required information shall be provided whether or not the conviction or convictions have been set aside or expunged from court records pursuant to law. "Convicted" means having plead guilty or nolo contendere ("no contest") to a crime and/or have been sentenced for a crime, whether incarcerated, placed on probation, fined or having received a suspended sentence. An applicant shall also answer "yes" to this question, even though he or she has not been convicted of a felony, or misdemeanor as described above, if the applicant is presently pending trial or other court proceeding for the offense. The applicant shall provide specific information describing each conviction, including where, when and in which court or courts the convictions or pleas were entered, the nature of the offense or offenses, and the dispositions and sentences imposed;

(11) Such other information as may be deemed by the customer service director as reasonably necessary to fully evaluate the application.

Sec. 16-205. Fingerprinting; background investigation; time for issuance

(a) All applicants for licenses under this article shall personally appear at the office of the director for the purpose of being fingerprinted. The police department shall conduct a background investigation of the applicant and shall advise the director of the findings of such investigation within the period allowed to the director to issue or deny a license.

(b) The director shall have sixty (60) days from the date of the completion of all application materials and requirements to either issue or deny any license subject to this article. The issuance of any license shall in no way be construed as a waiver of any right of denial or revocation the city may have at the time of issuance.

Sec. 16-206. Massage facility license; special requirements.

(a) No massage facility license shall be issued to a person or renewed unless the applicant certifies that the site of the proposed or existing facility complies with all of the following minimum requirements:

- (1) Minimum lighting requirements shall be provided in accordance with the requirements of chapter 31 of the city code and, additionally, at least one (1) artificial light of not less than forty (40) watts shall be provided in each room or enclosure where services are performed on patrons and shall be in use whenever such services are being performed;
- (2) Minimum ventilation shall be provided in accordance with the requirements of chapter 31 of the city code;
- (3) Adequate equipment shall be provided for disinfecting and sterilizing instruments used in administering or practicing any massage;
- (4) Closed cabinets shall be provided and used for the storage of clean linens;
- (5) Dressing, locker and toilet facilities, including hot and cold running water, shall be provided for patrons. A minimum of one (1) dressing room containing a separate locker for each patron to be served, which locker shall be capable of being locked, and a minimum of one (1) toilet and one (1) wash basin shall be provided by every bathhouse and massage facility. The toilet and wash basin shall be located in the facility, or in a public restroom, not used in connection with a commercial business, within 150 feet of the facility. If both male and female patrons are to be served simultaneously at the bathhouse or massage facility, however, a separate massage room or rooms, and separate dressing facilities shall be provided for male and female patrons.
- (6) All walls, ceilings, floors, pools, showers, bathtubs, steam rooms as applicable and all other physical facilities for the bathhouse or massage facility must be in good repair and maintained in a clean and sanitary condition. Wet and dry heat rooms, steam or vapor rooms, steam or vapor cabinets, shower compartments, and toilet rooms shall be thoroughly cleaned each day the business is in operation. Bathtubs shall be thoroughly cleaned after each use.
- (7) Clean and sanitary towels shall be provided for each patron of the bathhouse or massage facility. The head rest of each table used for massage techniques shall be provided with a clean and sanitary towel, paper towel or sheet for each patron.
- (8) Compliance with all applicable provisions of the city's fire code and zoning ordinance.

(b) Persons holding valid massage facility licenses on the effective date of this article shall not be required to file a certification of compliance as provided in subsection (a), above, but shall be required to do so upon reapplication for a license in the event that the license expires, or upon a change in location pursuant to section 16-212.

Sec. 16-207. Massage therapist license; special requirements.

(a) No massage therapist license shall be issued unless the applicant furnishes a diploma or certificate of graduation from a licensed school of massage therapy, as defined by this article, indicating the successful completion of five hundred (500) hours of classroom training. It shall be the burden of the applicant to demonstrate compliance with this requirement and the applicant shall furnish to the director or the police department, upon request, such additional documentation as is reasonably necessary to show compliance. Any student, who is enrolled in a licensed school of massage therapy on the effective date of this section and who completes the course of study in which they are enrolled, without interruption, shall only be required to successfully complete two hundred (200) hours of classroom training. This exception shall be conditioned upon the student providing proof of enrollment in a licensed school of massage therapy, in writing, to the director within ninety (90) days of the effective date of this section.

(b) The training required by subsection (a), above, must be reflected in a single diploma or certificate of graduation. In the event that an applicant has received the training required by subsection (a), above, at more than one licensed school of massage therapy, the applicant must provide the director with a signed and notarized statement by an authorized official of a licensed school of massage therapy, as identified in part I of the definition of that term as found in section 16-201, above, certifying that the training of the applicant, by itself or with additional training, which has been given by the certifying school, constitutes the required number of hours of training.

(c) An applicant who has received massage therapy training outside of the United States may comply with the requirements of this section by providing: (1) a transcript, certified by the massage therapy school, of the training received; and (2) a signed and notarized statement by an authorized official of a licensed school of massage therapy, as identified in part I of the definition of that term as found in section 16-201, above, certifying that the training of the applicant, by itself or with additional training, which has been given by the certifying school, constitutes five hundred (500) hours of classroom training.

(d) The transcript and any other documents required to be provided by the applicant pursuant to this section 16-207, shall be translated into English, as applicable, at the sole cost and expense of the applicant. Any translated document shall be certified by the translator to be an accurate translation. The name, address, telephone number and qualifications of the translator shall be provided to the director when the translated documents are submitted. The director, in the director's sole discretion, may determine that additional translation or verification of a translation is necessary. In such cases, the director shall select a translator. The applicant shall pay for the translation and shall do so in advance, if requested to do so by the director.

(e) Notwithstanding the provisions of subsection (a), above, a massage therapist licensed to practice in the city at the time of the effective date of this ordinance may continue to do so, subject to timely compliance with the renewal provisions of this article. Any license which is renewable under this provision, but which expires, however, shall be null and void and in such

case the former licensee must make a new application for a license and shall fully comply with all of the terms of this article, including subsection (a), above, and the requirement of five hundred (500) hours of classroom training.

Sec. 16-208. Roling license; special requirements.

No roling license shall be issued unless the applicant furnishes proof that the applicant has been certified as either a certified rolfer, a certified rolf movement teacher, or as having advanced rolfling certification from the Rolf Institute, Boulder, Colorado.

Sec. 16-209. Types of licenses; on-premises; off-premises.

(a) Massage therapist licenses and rolfer's licenses shall be of two (2) types: on-premises and off-premises. Each shall be applied for separately and each shall require the payment of the fee provided in this article.

(b) A person who holds a current, valid license of one (1) class, however, may make application for another class of license on a request for additional license form, which shall be available through the customer service director. Any person filing a request for additional license shall not have to fully comply with the requirements of sections 16-204 or 16-205 of this article, but shall be required to furnish such summary information as may be deemed necessary by the customer service director to identify the applicant and verify the applicant's licensed status.

(c) The renewal of any additional license, as provided for in this section, shall be in accordance with section 16-213 of this article.

(d) The administration of any off-premises treatment by a person holding a current, valid off-premises license shall be subject to the permission of the owner or manager of the premises upon which the treatment is to be given.

Sec. 16-210. Display of license.

(a) Every person, association, partnership, firm or corporation to whom a massage facility license is issued pursuant to this article shall display the license in a conspicuous place upon the business premises of the facility.

(b) Massage therapists or rolfers holding on-premises licenses pursuant to this article shall carry or wear their licensee identification card on their person at all times during which they are engaged in or are available for licensed on-premises treatments.

(c) Massage therapists or rolfers holding off-premises licenses pursuant to this article shall conspicuously display their licensee identification card on the front portion of their outer clothing at all times when they are engaged in licensed off-premises treatments and at all times when they are on any part of the property of another pursuant to a request to engage in off-premises treatments.

Sec. 16-211. Required records; logs.

(a) Massage facility licensees shall maintain a current list of massage therapists working at the facility, either as employees or independent contractors. The list shall include the name of the therapist, residence address, telephone number, date of issuance of license, date of expiration of license, date first began service and when terminated service. The list shall be subject to inspection by the police department upon request, during normal business hours. The list shall at all times reflect the names of licensees employed or working for the previous one year period.

(b) All licensed massage facilities and rolfers shall maintain a log of all treatments given at the facility or business location, as applicable. The log shall contain the following information: date and time of each treatment administered, name and address of the patron, name of the employee administering such treatment and the type of treatment administered. The log shall be retained for a minimum period of one year following any treatment and it shall be available for inspection by the police department, upon request, at the facility or business, at any time during normal business hours.

(c) All massage therapists and rolfers who hold off premises licenses shall maintain a log of all off-premises treatments given. The log required by this subsection shall contain the information required in subsection (b), above, and shall additionally include the address at which each treatment was administered. The log shall be retained as required subsection (b) and shall be subject to inspection as provided therein, except that the police department may require the licensee to produce the log, either at the police department or other mutually agreeable location, upon request.

Sec. 16-212. Change in location of business.

A change in location of a massage facility which is licensed under the provisions of this article must be approved by the customer service director prior to the transaction of business at the new location and shall be approved provided that all the terms and conditions applicable to facilities under this article have been complied with and the applicant for transfer has paid a fee of fifty dollars (\$50) to the customer service director. The approval of the transfer shall be subject to compliance with section 16-206 of this article.

Sec. 16-213. License renewal.

(a) Licenses issued pursuant to this article, or renewed pursuant to section 16-207, shall be renewed annually by submitting the following to the customer service director, accompanied by the fee or fees required by this article:

- (1) A renewal application form accompanied by a renewal fee in the amount of fifty dollars (\$50) for each license being renewed;
- (2) Complete information regarding whether or not the applicant has ever been convicted of, plead guilty or no contest to, or has been sentenced for, any felony, or any misdemeanor involving fraud, theft, dishonesty, assaultive conduct or moral turpitude, in any jurisdiction, including a military court, within the five year period immediately preceding the filing of the application. The required information shall be provided whether or not the conviction or convictions have been set aside or expunged from court records pursuant to law. "Convicted" means having plead guilty or nolo contendere ("no contest") to a crime and/or have been sentenced for a crime, whether incarcerated, placed on probation, fined or having received a suspended sentence. An applicant shall also answer "yes" to this question, even though he or she has not been convicted of a felony, or misdemeanor as described above, if the applicant is presently pending trial or other court proceeding for the offense. The applicant shall provide specific information describing each conviction, including where, when and in which court or courts the convictions or pleas were entered, the nature of the offense or offenses, and the dispositions and sentences imposed;

(b) Applications for license renewal shall be filed with the customer service director prior to the expiration of the license currently in effect. An application for a license renewal shall not be accepted after the expiration date of the license. In the event that a license expires without the licensee having submitted a timely application for renewal, the holder of the expired license must file a new application for initial license and shall comply with all of the requirements provided herein for obtaining an initial license.

(c) A person who holds a current, valid license of one class may request, at time of license renewal, to change to another massage license class. The request for change shall be granted provided that the applicant meets all requirements for renewal of the class or license requested. The fee will be assessed as a renewal.

Sec. 16-214. Sale, transfer or expansion of massage facility.

(a) Upon the sale or transfer of any interest in a massage facility, the license therefor shall be null and void. A new application shall be made by any person, association, firm or corporation desiring to own or to operate all or any portion of the facility. The provisions of

Section 16-204 through 16-206 shall apply to any person, association, firm or corporation applying for a massage facility license for premises previously used as such a facility.

(b) Any enlargement or expansion of the building or other place of business of a massage facility shall comply with the provisions of Section 16-206.

Sec. 16-215. Unlawful acts; penalty.

(a) It shall be unlawful for:

- (1) Any person to practice or administer any massage or rolfing techniques, for a fee or other consideration, without first obtaining and maintaining in effect the license or licenses required by this article.
- (2) Any person to conduct or operate a massage facility or bathhouse, or to engage in the occupation of massage therapist or rolfing, without first obtaining and maintaining, as applicable, the licenses required by this chapter.
- (3) Any massage therapist or a rolfing to administer any treatment or procedure on-premises without having obtained an on-premises license, or to administer any treatment or procedure off-premises without having obtained an off-premises license, as provided by this article.
- (4) Any person to employ as a massage therapist any person who does not hold a current unrevoked and unsuspended massage therapist license as required by this article.
- (5) Any person licensed as provided in this article to operate under any name or conduct business under any designation not specified in such license, or to engage in the business of operating a massage facility or as a massage therapist or rolfing under a false or assumed name when the use of such false or assumed name is not otherwise permitted by law.
- (6) Any person licensed as provided in this article to remain open or provide services, including off-premises services, at any time between the hours of 12:00 a.m. (midnight) and 5:00 a.m. When a massage facility constitutes only a portion of a larger business, not subject by law to operation during specific hours, this limitation shall apply only to that area that is customarily used for the activities subject to licensing under this article.
- (7) Any person to conduct or operate a massage establishment on the same premises whereon is also conducted the business of a photography studio, model studio, art studio, telephone answering service, motion picture theater, bookstore; or a cocktail lounge, except those operated incidental to a hotel, motel or resort.

- (8) Any person subject to the provisions of this article to practice or administer any licensed activities or techniques, whether for fee or gratuity:
- a. in a manner or under circumstances intended to arouse, appeal to or gratify sexual desires;
 - b. to any other person whose genital organs are not covered by opaque materials;
 - c. while dressed in such a way that the genital organs, buttocks or female breast or breasts are not covered by opaque material; or
 - d. to touch in any way the genital organs of the individual receiving treatment, or any portion of the breasts of a female receiving treatment.
- (9) Any person to provide treatment or use massage techniques upon or to a person when another person, of the opposite sex, is being provided treatment or having massage techniques used upon them in the same room or quarters, unless the room or quarters is partitioned, or otherwise so designed as to completely prevent persons receiving treatment or massage techniques from viewing others who are receiving treatment or massage techniques.
- (10) Any licensee to fail to carry or display their license or licensee identification card, as applicable, as required by Section 16-210.
- (11) Any licensee to fail to comply with the requirements of section 16-211, relating to the maintenance, retention and production of records and logs.
- (12) Any licensee to administer treatment at any place or location that is not specifically authorized by the license held by the licensee.
- (13) Any licensee to engage in or attempt to engage in providing treatment or use massage techniques off-premises without complying with the provisions of section 16-209(d).

(b) A violation of any of the provisions of this section shall be punishable as class 1 misdemeanors are punishable under state law. Each day that a violation of this section continues shall constitute a separate offense.

(c) In no case shall the revocation of a license constitute a defense against prosecution for any act or omission made unlawful by the provisions of this article.

Sec. 16-216. Review and appeals

Any person aggrieved by any decision with respect to either the denial of or a refusal to issue a license, or the revocation of a license which is subject to this article, shall be entitled to

the review and appeal procedures provided in Article I of this chapter.

Sec. 16-217. Revocation; Grounds.

A license issued pursuant to this article shall be revoked upon a finding that the permit holder has violated any provisions of this article, or there are grounds for revocation pursuant to Article I of this chapter. Revocation procedures shall be as set forth in Article I.

Sec. 16-218. Information update.

An applicant or licensee shall give written notice to the director of any material changes in information submitted in connection with a license or renewal application (e.g., legal name, residence address, business address, telephone number, criminal history as described in subsections 16-204(10) and 16-213(a)(2)). This information shall be submitted to the director within ten (10) days of any such change.

Sec. 16-219. Inspections.

(a) Any bathhouse or massage facility, its equipment, records and methods of operation shall be open during working or business hours to inspection by representatives of the police department or health department. The director of public health and the chief of police shall assign personnel to make regular inspections of such licensees and a report of such inspections shall be made to the chief of police in writing.

(b) No inspector shall enter the room or immediate quarters in which a person of the sex opposite to that of the inspector is undergoing treatment or receiving services.

Sec. 16-220. Application after denial or revocation of license.

No person, association, firm or corporation may apply for any massage facility, massage therapist or rolfer's license within two years from the denial of any such license to such applicant, or from the non-renewal or revocation of any such license, unless the cause of such denial, suspension, revocation or non-renewal has been, to the satisfaction of the customer service director, removed within such time.

Sec. 16-221. Applicability of regulations to existing businesses.

The provisions of this chapter shall apply to all activities regulated by this chapter of such persons and businesses described herein, whether such activities were commenced before, on or after the effective date of this chapter; provided, however, that any person, association, firm

or corporation licensed under the provisions of previously existing regulations and ordinances shall be eligible to renew such license subject to the provisions of Section 16-213.

Sec. 16-222. Exemptions.

- (a) The provisions of this chapter shall not apply to:
 - (1) Persons licensed pursuant to the laws of this state to practice medicine, osteopathy, chiropractic, podiatry, naturopathy, physical therapy or acupuncture;
 - (2) Registered nurses, licensed practical nurses or technicians, when acting under the supervision of a licensed physician or osteopath;
 - (3) Persons employed or acting as trainers for any bona fide amateur, semi-professional or professional athletic team or athlete;
 - (4) Persons authorized by the laws of this state as barbers or cosmetologists, provided their activity is limited to the head, face or neck;
 - (5) Massage students performing clinical practicum at a licensed school of massage therapy, as defined in section 16-201, in the City of Scottsdale and in which the student receives no compensation including tips and gratuities.
- (b) Any exemption herein granted is effective only insofar as and to the extent that the bona fide practice of the business or profession of the person exempted overlaps into the field comprehended by this chapter, and exemption granted herein are solely for those activities which are performed in the course of the bona fide practice of the business or profession of the person exempted.

INDEX

Administration	2
Appeals	11
Application after denial or revocation of license	12
Applicability of regulations to existing business	12
Change in location of business	8
Definitions	1
Denial of license or renewal; revocation	12
Display of license	7
Duplicate license	3
Exemptions	13
Fees	
Original application	3
Renewal	9
Duplicate license	3
Fingerprint	3
Fingerprinting; investigation	4
Inspections	12
License	2
License application; contents	3
License duration	2
License renewal	9
Massage facility license; special requirements	4
Massage therapist license; special requirements	6
Required records; logs	8
Review and appeals	11
Rolfing license; special requirements	7
Sale, transfer or expansion of massage facility	9
Timeframe for issuance of license	4
Transfer (non-transfer) of massage therapist license	2
Types of licenses; on-premises; off-premises	7
Unlawful acts; penalty	10